

(g) *Inability to withdraw.* Notwithstanding paragraphs (a) through (f) of this section, a CAIR SO<sub>2</sub> opt-in unit shall not be eligible to withdraw from the CAIR SO<sub>2</sub> Trading Program if the CAIR designated representative of the CAIR SO<sub>2</sub> opt-in unit requests, and the permitting authority issues a CAIR opt-in permit providing for, allocation to the CAIR SO<sub>2</sub> opt-in unit of CAIR SO<sub>2</sub> allowances under § 97.288(c).

**§ 97.287 Change in regulatory status.**

(a) *Notification.* If a CAIR SO<sub>2</sub> opt-in unit becomes a CAIR SO<sub>2</sub> unit under § 97.204, then the CAIR designated representative shall notify in writing the permitting authority and the Administrator of such change in the CAIR SO<sub>2</sub> opt-in unit's regulatory status, within 30 days of such change.

(b) *Permitting authority's and Administrator's actions.* (1) If a CAIR SO<sub>2</sub> opt-in unit becomes a CAIR SO<sub>2</sub> unit under § 97.204, the permitting authority will revise the CAIR SO<sub>2</sub> opt-in unit's CAIR opt-in permit to meet the requirements of a CAIR permit under § 97.223, and remove the CAIR opt-in permit provisions, as of the date on which the CAIR SO<sub>2</sub> opt-in unit becomes a CAIR SO<sub>2</sub> unit under § 97.204.

(2)(i) The Administrator will deduct from the compliance account of the source that includes the CAIR SO<sub>2</sub> opt-in unit that becomes a CAIR SO<sub>2</sub> unit under § 97.204, CAIR SO<sub>2</sub> allowances equal in amount to and allocated for the same or a prior control period as:

(A) Any CAIR SO<sub>2</sub> allowances allocated to the CAIR SO<sub>2</sub> opt-in unit under § 97.288 for any control period after the date on which the CAIR SO<sub>2</sub> opt-in unit becomes a CAIR SO<sub>2</sub> unit under § 97.204; and

(B) If the date on which the CAIR SO<sub>2</sub> opt-in unit becomes a CAIR SO<sub>2</sub> unit under § 97.204 is not December 31, the CAIR SO<sub>2</sub> allowances allocated to the CAIR SO<sub>2</sub> opt-in unit under § 97.288 for the control period that includes the date on which the CAIR SO<sub>2</sub> opt-in unit becomes a CAIR SO<sub>2</sub> unit under § 97.204, multiplied by the ratio of the number of days, in the control period, starting with the date on which the CAIR SO<sub>2</sub> opt-in unit becomes a CAIR SO<sub>2</sub> unit under § 97.204 divided by the total number of days in the control period and

rounded to the nearest whole allowance as appropriate.

(ii) The CAIR designated representative shall ensure that the compliance account of the source that includes the CAIR SO<sub>2</sub> opt-in unit that becomes a CAIR SO<sub>2</sub> unit under § 97.204 contains the CAIR SO<sub>2</sub> allowances necessary for completion of the deduction under paragraph (b)(2)(i) of this section.

[65 FR 2727, Jan 18, 2000, as amended at 71 FR 74795, Dec. 13, 2006]

**§ 97.288 CAIR SO<sub>2</sub> allowance allocations to CAIR SO<sub>2</sub> opt-in units.**

(a) *Timing requirements.* (1) When the CAIR opt-in permit is issued under § 97.284(e), the permitting authority will allocate CAIR SO<sub>2</sub> allowances to the CAIR SO<sub>2</sub> opt-in unit, and submit to the Administrator the allocation for the control period in which a CAIR SO<sub>2</sub> opt-in unit enters the CAIR SO<sub>2</sub> Trading Program under § 97.284(g), in accordance with paragraph (b) or (c) of this section.

(2) By no later than October 31 of the control period after the control period in which a CAIR SO<sub>2</sub> opt-in unit enters the CAIR SO<sub>2</sub> Trading Program under § 97.284(g) and October 31 of each year thereafter, the permitting authority will allocate CAIR SO<sub>2</sub> allowances to the CAIR SO<sub>2</sub> opt-in unit, and submit to the Administrator the allocation for the control period that includes such submission deadline and in which the unit is a CAIR SO<sub>2</sub> opt-in unit, in accordance with paragraph (b) or (c) of this section.

(b) *Calculation of allocation.* For each control period for which a CAIR SO<sub>2</sub> opt-in unit is to be allocated CAIR SO<sub>2</sub> allowances, the permitting authority will allocate in accordance with the following procedures, if provided in a State implementation plan revision submitted in accordance with § 51.124(r)(1), (2), or (3) of this chapter and approved by the Administrator:

(1) The heat input (in mmBtu) used for calculating the CAIR SO<sub>2</sub> allowance allocation will be the lesser of:

(i) The CAIR SO<sub>2</sub> opt-in unit's baseline heat input determined under § 97.284(c); or

(ii) The CAIR SO<sub>2</sub> opt-in unit's heat input, as determined in accordance with subpart HHH of this part, for the

immediately prior control period, except when the allocation is being calculated for the control period in which the CAIR SO<sub>2</sub> opt-in unit enters the CAIR SO<sub>2</sub> Trading Program under § 97.284(g).

(2) The SO<sub>2</sub> emission rate (in lb/mmBtu) used for calculating CAIR SO<sub>2</sub> allowance allocations will be the lesser of:

(i) The CAIR SO<sub>2</sub> opt-in unit's baseline SO<sub>2</sub> emissions rate (in lb/mmBtu) determined under § 97.284(d) and multiplied by 70 percent; or

(ii) The most stringent State or Federal SO<sub>2</sub> emissions limitation applicable to the CAIR SO<sub>2</sub> opt-in unit at any time during the control period for which CAIR SO<sub>2</sub> allowances are to be allocated.

(3) The permitting authority will allocate CAIR SO<sub>2</sub> allowances to the CAIR SO<sub>2</sub> opt-in unit with a tonnage equivalent equal to, or less than by the smallest possible amount, the heat input under paragraph (b)(1) of this section, multiplied by the SO<sub>2</sub> emission rate under paragraph (b)(2) of this section, and divided by 2,000 lb/ton.

(c) Notwithstanding paragraph (b) of this section and if the CAIR designated representative requests, and the permitting authority issues a CAIR opt-in permit (based on a demonstration of the intent to repower stated under § 97.283(a)(5)) providing for, allocation to a CAIR SO<sub>2</sub> opt-in unit of CAIR SO<sub>2</sub> allowances under this paragraph (subject to the conditions in §§ 97.284(h) and 97.286(g)), the permitting authority will allocate to the CAIR SO<sub>2</sub> opt-in unit as follows, if provided in a State implementation plan revision submitted in accordance with § 51.124(r)(1), (2), or (3) of this chapter and approved by the Administrator:

(1) For each control period in 2010 through 2014 for which the CAIR SO<sub>2</sub> opt-in unit is to be allocated CAIR SO<sub>2</sub> allowances,

(i) The heat input (in mmBtu) used for calculating CAIR SO<sub>2</sub> allowance allocations will be determined as described in paragraph (b)(1) of this section.

(ii) The SO<sub>2</sub> emission rate (in lb/mmBtu) used for calculating CAIR SO<sub>2</sub> allowance allocations will be the lesser of:

(A) The CAIR SO<sub>2</sub> opt-in unit's baseline SO<sub>2</sub> emissions rate (in lb/mmBtu) determined under § 97.284(d); or

(B) The most stringent State or Federal SO<sub>2</sub> emissions limitation applicable to the CAIR SO<sub>2</sub> opt-in unit at any time during the control period in which the CAIR SO<sub>2</sub> opt-in unit enters the CAIR SO<sub>2</sub> Trading Program under § 97.284(g).

(iii) The permitting authority will allocate CAIR SO<sub>2</sub> allowances to the CAIR SO<sub>2</sub> opt-in unit with a tonnage equivalent equal to, or less than by the smallest possible amount, the heat input under paragraph (c)(1)(i) of this section, multiplied by the SO<sub>2</sub> emission rate under paragraph (c)(1)(ii) of this section, and divided by 2,000 lb/ton.

(2) For each control period in 2015 and thereafter for which the CAIR SO<sub>2</sub> opt-in unit is to be allocated CAIR SO<sub>2</sub> allowances,

(i) The heat input (in mmBtu) used for calculating the CAIR SO<sub>2</sub> allowance allocations will be determined as described in paragraph (b)(1) of this section.

(ii) The SO<sub>2</sub> emission rate (in lb/mmBtu) used for calculating the CAIR SO<sub>2</sub> allowance allocation will be the lesser of:

(A) The CAIR SO<sub>2</sub> opt-in unit's baseline SO<sub>2</sub> emissions rate (in lb/mmBtu) determined under § 97.284(d) multiplied by 10 percent; or

(B) The most stringent State or Federal SO<sub>2</sub> emissions limitation applicable to the CAIR SO<sub>2</sub> opt-in unit at any time during the control period for which CAIR SO<sub>2</sub> allowances are to be allocated.

(iii) The permitting authority will allocate CAIR SO<sub>2</sub> allowances to the CAIR SO<sub>2</sub> opt-in unit with a tonnage equivalent equal to, or less than by the smallest possible amount, the heat input under paragraph (c)(2)(i) of this section, multiplied by the SO<sub>2</sub> emission rate under paragraph (c)(2)(ii) of this section, and divided by 2,000 lb/ton.

(d) *Recordation.* If provided in a State implementation plan revision submitted in accordance with § 51.124(r)(1), (2), or (3) of this chapter and approved by the Administrator:

(1) The Administrator will record, in the compliance account of the source that includes the CAIR SO<sub>2</sub> opt-in unit,

the CAIR SO<sub>2</sub> allowances allocated by the permitting authority to the CAIR SO<sub>2</sub> opt-in unit under paragraph (a)(1) of this section.

(2) By December 1 of the control period in which a CAIR SO<sub>2</sub> opt-in unit enters the CAIR SO<sub>2</sub> Trading Program under §97.284(g) and December 1 of each year thereafter, the Administrator will record, in the compliance account of the source that includes the CAIR SO<sub>2</sub> opt-in unit, the CAIR SO<sub>2</sub> allowances allocated by the permitting authority to the CAIR SO<sub>2</sub> opt-in unit under paragraph (a)(2) of this section.

#### APPENDIX A TO SUBPART III OF PART 97—STATES WITH APPROVED STATE IMPLEMENTATION PLAN REVISIONS CONCERNING CAIR SO<sub>2</sub> OPT-IN UNITS

1. The following States have State Implementation Plan revisions under §51.124(r) of this chapter approved by the Administrator and establishing procedures providing for CAIR SO<sub>2</sub> opt-in units under subpart III of this part and allocation of CAIR SO<sub>2</sub> allowances to such units under §97.288(b):

[Reserved]

2. The following States have State Implementation Plan revisions under §51.124(r) of this chapter approved by the Administrator and establishing procedures providing for CAIR SO<sub>2</sub> opt-in units under subpart III of this part and allocation of CAIR SO<sub>2</sub> allowances to such units under §97.288(c):

[Reserved]

### Subpart AAAA—CAIR NO<sub>x</sub> Ozone Season Trading Program General Provisions

#### §97.301 Purpose.

This subpart and subparts BBBB through IIII set forth the general provisions and the designated representative, permitting, allowance, monitoring, and opt-in provisions for the Federal Clean Air Interstate Rule (CAIR) NO<sub>x</sub> Ozone Season Trading Program, under section 110 of the Clean Air Act and §52.35 of this chapter, as a means of mitigating interstate transport of ozone and nitrogen oxides.

#### §97.302 Definitions.

The terms used in this subpart and subparts BBBB through IIII shall have the meanings set forth in this section as follows:

*Account number* means the identification number given by the Administrator to each CAIR NO<sub>x</sub> Ozone Season Allowance Tracking System account.

*Acid Rain emissions limitation* means a limitation on emissions of sulfur dioxide or nitrogen oxides under the Acid Rain Program.

*Acid Rain Program* means a multi-state sulfur dioxide and nitrogen oxides air pollution control and emission reduction program established by the Administrator under title IV of the CAA and parts 72 through 78 of this chapter.

*Administrator* means the Administrator of the United States Environmental Protection Agency or the Administrator's duly authorized representative.

*Allocate* or *allocation* means, with regard to CAIR NO<sub>x</sub> Ozone Season allowances, the determination by a permitting authority or the Administrator of the amount of such CAIR NO<sub>x</sub> Ozone Season allowances to be initially credited to a CAIR NO<sub>x</sub> Ozone Season unit, a new unit set-aside, or other entity.

*Allowance transfer deadline* means, for a control period, midnight of November 30 (if it is a business day), or midnight of the first business day thereafter (if November 30 is not a business day), immediately following the control period and is the deadline by which a CAIR NO<sub>x</sub> Ozone Season allowance transfer must be submitted for recordation in a CAIR NO<sub>x</sub> Ozone Season source's compliance account in order to be used to meet the source's CAIR NO<sub>x</sub> Ozone Season emissions limitation for such control period in accordance with §97.354.

*Alternate CAIR designated representative* means, for a CAIR NO<sub>x</sub> Ozone Season source and each CAIR NO<sub>x</sub> Ozone Season unit at the source, the natural person who is authorized by the owners and operators of the source and all such units at the source, in accordance with subparts BBBB and IIII of this part, to act on behalf of the CAIR designated representative in matters pertaining to the CAIR NO<sub>x</sub> Ozone Season Trading Program. If the CAIR NO<sub>x</sub> Ozone Season source is also a CAIR NO<sub>x</sub> source, then this natural person shall be the same person as the alternate CAIR designated representative under the CAIR NO<sub>x</sub> Annual Trading